

FILED

Pro Se 3 (Rev. 12/16) The Defendant's Answer to the Complaint

UNITED STATES DISTRICT COURT AM 11:12

for the

Central District of CALIFORNIA

Division

CLERK U.S. DISTRICT COURT  
CENTRAL DIST. OF CALIF  
SANTA ANA

BY PO

KIMBERLY HUDSON-BRYANT, individually and  
on behalf of all others similarly situated

Plaintiff(s)

(Write the full name of each plaintiff who is filing this complaint.  
If the names of all the plaintiffs cannot fit in the space above,  
please write "see attached" in the space and attach an additional  
page with the full list of names.)

-v-

OCMBC, INC. D/B/A LOANSTREAM, PREMIER  
FINANCIAL MARKETING LLC D/B/A RESMO  
LENDING AND SEAN ROBERTS

Defendant(s)

(Write the full name of each defendant who is being sued. If the  
names of all the defendants cannot fit in the space above, please  
write "see attached" in the space and attach an additional page  
with the full list of names.)

Case No. 8:24-cv-67-FWS-JDE

(to be filled in by the Clerk's Office)

Jury Trial: (check one) ☒ Yes ☐ No

THE DEFENDANT'S ANSWER TO THE COMPLAINT

I. The Parties Filing This Answer to the Complaint

Provide the information below for each defendant filing this answer or other response to the allegations in the plaintiff's complaint. Attach additional pages if needed.

Name	SEAN ROBERTS
Street Address	1812 PORT ABBEY PL
City and County	NEWPORT BEACH COUNTY OF ORANGE
State and Zip Code	CA 92660
Telephone Number	9495141047
E-mail Address	NEWPORTROBERTS@HOTMAIL.COM

II. The Answer and Defenses to the Complaint

A. Answering the Claims for Relief

On a separate page or pages, write a short and plain statement of the answer to the allegations in the complaint. Number the paragraphs. The answer should correspond to each paragraph in the complaint, with paragraph 1 of the answer corresponding to paragraph 1 of the complaint, etc. For each paragraph in the complaint, state whether: the defendant admits the allegations in that paragraph; denies the allegations; lacks sufficient knowledge to admit or deny the allegations; or admits certain allegations but denies, or lacks sufficient knowledge to admit or deny, the rest.

**B. Presenting Defenses to the Claims for Relief**

Write a short and plain statement identifying the defenses to the claims, using one or more of the following alternatives that apply.

1. The court does not have subject-matter jurisdiction over the claims because *(briefly explain why there is no federal-question jurisdiction or diversity-of-citizenship jurisdiction; see the complaint form for more information)*

Defendant Sean Roberts was an employee of multi-member LLC (Premier Financial), he is not the alter-ego, and he is therefore not liable.

---

2. The court does not have personal jurisdiction over the defendant because *(briefly explain)*

Defendant Sean Roberts was an employee of multi-member LLC (Premier Financial), he is not the alter-ego, and he is therefore not liable.

---

3. The venue where the court is located is improper for this case because *(briefly explain)*
- 

4. The defendant was served but the process-the form of the summons-was insufficient because *(briefly explain)*
- 

5. The manner of serving the defendant with the summons and complaint was insufficient because *(briefly explain)*
- 

6. The complaint fails to state a claim upon which relief can be granted because *(briefly explain why the facts alleged, even if true, are not enough to show the plaintiff's right to recover)*

Plaintiff has not made any factual allegations as to why Defendant Sean Roberts is being sued personally.

---

7. Another party *(name)* \_\_\_\_\_ needs to be joined (added) in the case. The reason is *(briefly explain why joining another party is required)*
-

Pro Se 3 (Rev. 12/16) The Defendant's Answer to the Complaint

---

- a. If the basis for subject-matter jurisdiction is diversity of citizenship, state the effect of adding the other party:  
The other party is a citizen of the State of *(name)* \_\_\_\_\_.  
Or is a citizen of *(foreign nation)* \_\_\_\_\_. The amount of damages sought from this other party is *(specify the amount)* \_\_\_\_\_.
- b. If the claim by this other party is based on an alleged violation of a federal constitutional or statutory right, state the basis:
- 

**C. Asserting Affirmative Defenses to the Claims for Relief**

Identify an affirmative defense or avoidance that provides a basis for the defendant to avoid liability for one or more of the plaintiff's claims even if the basis for the claim is met. Any affirmative defense or avoidance must be identified in the answer. Include any of the following that apply, as well as any others that may apply.

The plaintiff's claim for *(specify the claim)*

Count 1: Telephone Consumer Protection Act (Violations of 47 U.S.C. § 227)

---

is barred by *(identify one or more of the following that apply)*:

1. Accord and satisfaction *(briefly explain)*

---

2. Arbitration and award *(briefly explain)*

---

3. Assumption of risk *(briefly explain)*

---

4. Contributory or comparative negligence of the plaintiff *(briefly explain)*

---

5. Duress *(briefly explain)*

Pro Se 3 (Rev. 12/16) The Defendant's Answer to the Complaint

---

---

6. Estoppel *(briefly explain)*

---

7. Failure of consideration *(briefly explain)*

---

8. Fraud *(briefly explain)*

---

9. Illegality *(briefly explain)*

---

10. Injury by fellow employee *(briefly explain)*

---

11. Laches (Delay) *(briefly explain)*

---

12. License *(briefly explain)*

---

13. Payment *(briefly explain)*

---

14. Release *(briefly explain)*

---

15. Res judicata *(briefly explain)*

---

16. Statute of frauds *(briefly explain)*

---

17. Statute of limitations *(briefly explain)*

---

18. Waiver *(briefly explain)*

---

19. Other *(briefly explain)*

See attached Affirmative Defenses

---

**D. Asserting Claims Against the Plaintiff (Counterclaim) or Against Another Defendant (Cross-Claim)**

For either a counterclaim against the plaintiff or a cross-claim against another defendant, state briefly the facts showing why the defendant asserting the counterclaim or cross-claim is entitled to the damages or other relief sought. Do not make legal arguments. State how each opposing party was involved and what each did that caused the defendant harm or violated the defendant's rights, including the dates and places of that involvement or conduct. If more than one counterclaim or cross-claim is asserted, number each claim and write a short and plain statement of each claim in a separate paragraph. Attach additional pages if needed.

1. The defendant has the following claim against the plaintiff *(specify the claim and explain it; include a further statement of jurisdiction, if needed)*:

---

2. The defendant has the following claim against one or more of the other defendants *(specify the claim and explain it; include a further statement of jurisdiction, if needed)*:

---

3. State briefly and precisely what damages or other relief the party asserting a counterclaim or cross-claim asks the court to order. Do not make legal arguments. Include any basis for claiming that the wrongs alleged are continuing at the present time. Include the amounts of any actual damages claimed for the acts alleged and the basis for these amounts. Include any punitive or exemplary damages claimed, the amounts, and the reasons that are alleged to entitle the party to actual or punitive money damages.

Pro Se 3 (Rev. 12/16) The Defendant's Answer to the Complaint

- a. The defendant asserting the counterclaim or cross-claim against *(specify who the claim is against)* \_\_\_\_\_ alleges that the following injury or damages resulted *(specify)*:

- b. The defendant seeks the following damages or other relief *(specify)*:

### III. Certification and Closing

Under Federal Rule of Civil Procedure 11, by signing below, I certify to the best of my knowledge, information, and belief that this answer: (1) is not being presented for an improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; (2) is supported by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the answer otherwise complies with the requirements of Rule 11.

#### A. For Parties Without an Attorney

I agree to provide the Clerk's Office with any changes to my address where case-related papers may be served. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

Date of signing: 10/8/2024

Signature of Defendant

Printed Name of Defendant Sean Roberts

#### B. For Attorneys

Date of signing: \_\_\_\_\_

Signature of Attorney

Printed Name of Attorney

Bar Number

Name of Law Firm

Street Address

State and Zip Code

Pro Se 3 (Rev. 12/16) The Defendant's Answer to the Complaint

---

Telephone Number

E-mail Address

### **ANSWERING THE CLAIMS FOR RELIEF**

1. Defendant denies the allegations of Paragraph 1 of the Complaint.
2. Defendant denies the allegations of Paragraph 2 of the Complaint.
3. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 3 of the Complaint and, on that basis, denies the allegations in Paragraph 3.
4. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 4 of the Complaint and, on that basis, denies the allegations in Paragraph 4.
5. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 5 of the Complaint and, on that basis, denies the allegations in Paragraph 5.
6. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 6 of the Complaint and, on that basis, denies the allegations in Paragraph 6.
7. The allegations of paragraph 7 of the Complaint state legal conclusions that require no answer of Defendant, but to the extent a response is required, Defendant admits that Plaintiff asserts federal question jurisdiction under 28 U.S.C. § 1331 and 47 U.S.C. § 227 et seq.
8. Defendant admits that the Court has personal jurisdiction over Defendant.
9. Defendant admits that venue is proper.
10. The allegations of paragraph 10 of the Complaint state legal conclusions that require no answer of Defendant, but to the extent that such allegations require an answer, they are denied.
11. The allegations of paragraph 11 of the Complaint state legal conclusions that require no answer of Defendant, but to the extent that such allegations require an answer, they are denied.



12. The allegations of paragraph 12 of the Complaint state legal conclusions that require no answer of Defendant, but to the extent that such allegations require an answer, they are denied.

13. The allegations of paragraph 13 of the Complaint state legal conclusions that require no answer of Defendant, but to the extent that such allegations require an answer, they are denied.

14. Defendant denies the allegations of Paragraph 14 of the Complaint.

15. Defendant denies the allegations of Paragraph 15 of the Complaint.

16. The allegations of paragraph 16 of the Complaint state legal conclusions that require no answer of Defendant, but to the extent that such allegations require an answer, they are denied.

17. Defendant denies the allegations of Paragraph 17 of the Complaint.

18. Defendant denies the allegations of Paragraph 18 of the Complaint.

19. Defendant denies the allegations of Paragraph 19 of the Complaint.

20. Defendant denies the allegations of Paragraph 20 of the Complaint.

21. Defendant denies the allegations of Paragraph 21 of the Complaint.

22. Defendant denies the allegations of Paragraph 22 of the Complaint.

23. Defendant denies the allegations of Paragraph 23 of the Complaint.

24. Defendant denies the allegations of Paragraph 24 of the Complaint.

25. Defendant denies the allegations of Paragraph 25 of the Complaint.

26. The allegations of paragraph 26 of the Complaint state legal conclusions that require no answer of Defendant, but to the extent that such allegations require an answer, they are denied.

27. Defendant denies the allegations of Paragraph 27 of the Complaint.

28. The allegations of paragraph 28 of the Complaint state legal conclusions that require no answer of Defendant, but to the extent that such allegations require an answer, they are denied.

29. The allegations of paragraph 29 of the Complaint state legal conclusions that require no answer of Defendant, but to the extent that such allegations require an answer, they are denied.

30. Defendant denies the allegations of Paragraph 30 of the Complaint.

31. Defendant denies the allegations of Paragraph 31 of the Complaint.

32. Defendant denies the allegations of Paragraph 32 of the Complaint.

33. Defendant denies the allegations of Paragraph 33 of the Complaint.

34. Defendant denies the allegations of Paragraph 34 of the Complaint.

35. Defendant denies the allegations of Paragraph 35 of the Complaint.

36. Defendant denies the allegations of Paragraph 36 of the Complaint.

37. Defendant denies the allegations of Paragraph 37 of the Complaint.

38. Defendant denies the allegations of Paragraph 38 of the Complaint.

39. Defendant denies the allegations of Paragraph 39 of the Complaint.

40. Defendant denies the allegations of Paragraph 40 of the Complaint.

41. Defendant denies the allegations of Paragraph 41 of the Complaint.

42. Defendant denies the allegations of Paragraph 42 of the Complaint.

43. Defendant denies the allegations of Paragraph 43 of the Complaint.

44. Defendant denies the allegations of Paragraph 44 of the Complaint.

45. Defendant denies the allegations of Paragraph 45 of the Complaint.

46. Defendant denies the allegations of Paragraph 46 of the Complaint.

47. Defendant denies the allegations of Paragraph 47 of the Complaint.

48. Defendant denies the allegations of Paragraph 48 of the Complaint.

49. Defendant denies the allegations of Paragraph 49 of the Complaint.

50. Defendant denies the allegations of Paragraph 50 of the Complaint.

51. Defendant denies the allegations of Paragraph 51 of the Complaint.

52. Defendant denies the allegations of Paragraph 52 of the Complaint.

53. Defendant denies the allegations of Paragraph 53 of the Complaint.

54. Defendant denies the allegations of Paragraph 54 of the Complaint.

55. Defendant denies the allegations of Paragraph 55 of the Complaint.

56. Defendant denies the allegations of Paragraph 56 of the Complaint.

57. The allegations of paragraph 57 of the Complaint state legal conclusions that require no answer of Defendant, but to the extent that such allegations require an answer, they are denied.

58. The allegations of paragraph 58 of the Complaint state legal conclusions that require no answer of Defendant, but to the extent that such allegations require an answer, they are denied.

59. The allegations of paragraph 59 of the Complaint state legal conclusions that require no answer of Defendant, but to the extent that such allegations require an answer, they are denied.

60. Defendant denies the allegations of Paragraph 60 of the Complaint.

61. Defendant denies the allegations of Paragraph 61 of the Complaint.

62. Defendant denies the allegations of Paragraph 56 of the Complaint.

63. The allegations of paragraph 63 of the Complaint state legal conclusions that require no answer of Defendant, but to the extent that such allegations require an answer, they are denied.

64. Defendant denies the allegations of Paragraph 64 of the Complaint.

65. Defendant denies the allegations of Paragraph 65 of the Complaint.

66. Defendant denies the allegations of Paragraph 66 of the Complaint.

67. Defendant denies the allegations of Paragraph 67 of the Complaint.

68. The allegations of paragraph 68 of the Complaint state legal conclusions that require no answer of Defendant, but to the extent that such allegations require an answer, they are denied.

69. The allegations of paragraph 69 of the Complaint state legal conclusions that require no answer of Defendant, but to the extent that such allegations require an answer, they are denied.

70. Defendant denies the allegations of Paragraph 70 of the Complaint.

71. The allegations of paragraph 71 of the Complaint state legal conclusions that require no answer of Defendant, but to the extent that such allegations require an answer, they are denied.

72. The allegations of paragraph 72 of the Complaint state legal conclusions that require no answer of Defendant, but to the extent that such allegations require an answer, they are denied.

73. The allegations of paragraph 73 of the Complaint state legal conclusions that require no answer of Defendant, but to the extent that such allegations require an answer, they are denied.

74. Defendant denies the allegations of Paragraph 74 of the Complaint.

75. Defendant denies the allegations of Paragraph 75 of the Complaint.

76. Defendant denies the allegations of Paragraph 76 of the Complaint.

77. Defendant denies the allegations of Paragraph 77 of the Complaint.

78. Defendant denies the allegations of Paragraph 78 of the Complaint.

79. Defendant denies the allegations of Paragraph 79 of the Complaint.

80. Defendant denies the allegations of Paragraph 80 of the Complaint.

Defendant denies that Plaintiff is entitled to any of the relief she seeks in the “PRAYER FOR RELIEF” paragraph of the Complaint, including subparts A–D.

## **AFFIRMATIVE DEFENSES**

### **FIRST DEFENSE**

Plaintiff has failed to state a claim upon which relief can be granted.

### **SECOND DEFENSE**

Defendant had prior express invitation or permission to place any phone calls at-issue, including to Plaintiff and/or the putative class members.

### **THIRD DEFENSE**

Defendant was an employee of multi-member LLC (Premier Financial), he is not the alter-ego, and he is therefore not liable. Plaintiff has not made any factual allegations as to why Defendant Sean Roberts is being sued personally.

### **FOURTH DEFENSE**

Plaintiff's individual and class claims against Defendant must be dismissed because neither Plaintiff nor the absent classes have suffered an injury-in-fact, and therefore, lack standing to assert or pursue the claims in the Complaint.

### **FIFTH DEFENSE**

Defendant alleges that at all times mentioned in the Complaint, Defendant acted lawfully and within its legal rights, with a good faith belief in the exercise of those rights, and in the furtherance of a legitimate business purpose. Further, Defendant acted in good faith in the honest belief that the acts, conduct and communications, if any, of Defendant were justified under the circumstances based on information reasonably available to Defendant.

### **SIXTH DEFENSE**

Plaintiff has failed to join the necessary and indispensable parties in this action.

### **SEVENTH DEFENSE**

Plaintiff's and the putative class members' claims are barred by the applicable Statute of Limitations.

### **EIGHTH DEFENSE**

Defendant alleges that the award of statutory penalties against Defendant would violate the Due Process Clause of the United States Constitution and constitute excessive fines in violation of the Eighth Amendment of the United States Constitution

### **NINTH DEFENSE**

Plaintiff's and the putative class members' claims are barred, in whole or in part, by the doctrines of laches, unclean hands, and waiver.

### **TENTH DEFENSE**

Plaintiff's and the putative class members' claims under the TCPA are unconstitutional.

### **ELEVENTH DEFENSE**

Plaintiff's and the putative class members' claims against Defendant are barred, in whole or in part, by the TCPA's "Safe Harbor" provision or other "Safe Harbor" defenses.

### **TWELFTH DEFENSE**

Defendant alleges that by Plaintiff's and the absent class members' conduct, representations, and omissions, upon which Defendant detrimentally relied, Plaintiff and absent class members are equitably estopped from asserting any claim for relief against Defendant.

### **THIRTEENTH DEFENSE**

Defendant alleges that Plaintiff and/or the putative class members have expressly or impliedly consented to and approved all of the acts and omissions about which Plaintiff now complains. Accordingly, Plaintiff and/or the putative class members are barred from pursuing claims alleged in the Complaint.

### **FOURTEENTH DEFENSE**

Defendant alleges that Plaintiff and the putative class members are not entitled to any relief because Defendant's conduct did not proximately cause any damages, injury or loss to Plaintiff.

### **FIFTEENTH DEFENSE**

Defendant alleges that by conduct, representations, and omissions, Plaintiff and/or putative class members have waived, relinquished, and/or abandoned any claim for relief against Defendant respecting the matters that are the subject of the Complaint.

### **SIXTEENTH DEFENSE**

Plaintiff's and the putative class members' claims against Defendant are barred because the phone calls that are the subject of the Complaint constitute commercial speech protected by the First Amendment to the United States Constitution and the

imposition of liability on Defendant for such phone calls would violate its First Amendment rights.

### **SEVENTEENTH DEFENSE**

Plaintiff's and the putative class members' claims are barred because Defendant did not engage in willful and/or knowing misconduct.

### **EIGHTEENTH DEFENSE**

On information and belief, Plaintiff engineered a TCPA claim by causing a device or a person to submit authorization to call his phone number under a different name.

### **NINETEENTH DEFENSE**

Defendant is informed and believes, and on that basis alleges, that granting Plaintiff's demand would result in unjust enrichment, as Plaintiff and the putative class members would receive more money than they are entitled to receive.

### **TWENTIETH DEFENSE**

The alleged injuries and/or damages sustained by Plaintiff and the putative class members are the result of conduct of a person or persons over whom Defendant exercised no control.

### **TWENTY-FIRST DEFENSE**

Plaintiff and the putative class members are not entitled to relief under 47 U.S.C. § 227 because Defendant did not make any alleged telephone solicitations to them on their residential telephone lines.



### **TWENTY-SECOND DEFENSE**

Defendant is not liable for any violation, even if one occurred, because the violation was not intentional, and if any violation occurred, it resulted from a bona fide error notwithstanding Defendant's maintenance of procedures reasonably adapted to avoid any such error.

### **TWENTY-THIRD AFFIRMATIVE DEFENSE**

Plaintiff's and the putative class members' claims are barred by res judicata.

### **TWENTY-FOURTH AFFIRMATIVE DEFENSE**

Defendant states that it currently has insufficient knowledge or information on which to form a belief as to whether it may have additional, as yet unstated, defenses available. Defendant reserves the right to assert additional defenses in the event that discovery indicates it would be appropriate.

Defendant prays for judgment as follows:

1. That Plaintiff takes nothing by reason of his Complaint;
2. That judgment be entered against Plaintiff and in favor of Defendant;
3. That Defendant recovers all expenses, costs, and attorneys' fees in connection with this lawsuit; and
4. That the Court grant Defendant such other and further relief as it deems just and proper.